IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICITON

CENTRAL EXCISE APPEAL NO.264 OF 2006
WITH
CENTRAL EXCISE APPEAL NO.278 OF 206

The Commissioner of Central
Excise, Thane-I .. Appellant.

Versus

M/s.Kwality Rubber & Plastics
Products .. Respondent.

Mr.R.V. Desai, senior counsel, with Mr.A.S. Rao with Mr.H.P. Chaturvedi for the appellant.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.

DATED : 28TH SEPTEMBER, 2007.

P.C. :

1. Both these appeals raise similar question of law. Hence, both these appeals are disposed of by common order.

2. These appeals are preferred against order dated 2nd June, 2005. The contention as urged on behalf of the appellant by the learned counsel is that the Tribunal has proceeded on the footing that in the show cause notice there is nothing to show that the classification was done to indicate that there was suppression or misdeclaration of their products or misstatement of facts with intent to evade payment of duty.

3. Learned counsel has taken us to the show cause notice. The question ultimately remains whether the adjudicating authority has recorded such a finding. We find from the order of the adjudicating authority that there is no such finding recorded. In the light of that, even assuming that the Tribunal has given wrong reason, that by itself cannot be a ground, if ultimately the Tribunal is right for reversing that judgment considering the question of law as framed. In our opinion, ultimate finding is supported in absence of the adjudicating authority recording any finding as to the suppression or misdeclaration of products or misstatement of facts.

4. Considering the above, the question of law as framed would not arise. Hence, the appeal is dismissed.

(F.I. REBELLO, J.)

(J.P. DEVADHAR, J.)